

REMARKS

The application has been amended to place the application in condition for allowance at the time of the next Official Action.

Claims 1-7 are pending in the application.

Applicants note with appreciation the indication that claim 4 is allowable and that claim 7 is allowed. In reliance thereon, claim 4 is rewritten in independent form.

Claim 1 was rejected under 35 USC 102(b) as being anticipated by ZABARA et al. 4,702,254. That rejection is respectfully traversed.

Claim 1 is amended and recites regulating the stimulation intensity of the central nervous system affecting vagal nerve stimulation in response to at least one parameter in order to achieve an optimal stimulation effectiveness with regard to the abnormal brain-related condition to be treated. The changes in at least one parameter value is induced by changes in the VNS intensity. Support for the amendment may be found in paragraphs [0018], [0034] and [0035].

Claim 1 is amended to clarify that the response to the at least one parameter is used to indicate that an adequate level of VNS stimulation is achieved with respect to the desired therapeutical effect (treating an abnormal brain-related condition).

In ZABARA, the control of VNS is based on the detection of a symptom of the disease or disorder. In ZABARA, a physiological change, such as, a change in respiratory rate is monitored as a symptom of the disease or disorder that needs to be treated. Upon detection of such change, ZABARA activates VNS.

In contrast, as set forth above, the VNS stimulation is provided and any change in parameters such as respiratory changes are used to indicate that an adequate level of VNS stimulation is achieved. The respiratory changes are induced by VNS and are not symptoms of the disease/disorder attempted to be treated.

In view of the above, it is apparent that ZABARA does not use VNS in the manner recited. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 1-3 and 5 were rejected as being anticipated by KING et al. 2004/0210261. That rejection is respectfully traversed.

Claim 1 is amended and recites regulating the stimulation intensity of the central nervous system affecting vagal nerve stimulation in response to at least one parameter in order to achieve an optimal stimulation effectiveness with regard to the abnormal brain-related condition to be treated. The changes in at least one parameter value is induced by changes in the VNS intensity.

KING, similar to ZABARA uses changes in, for example, respiration to activate VNS. In KING, an interruption of

respiration, or the consequent increase in blood PCO_2 , are characteristic symptoms of apnea. KING uses such changes as an indication to activate VNS, such that the symptoms of the disorder (apnea) control the VNS.

In contrast, as set forth above, the VNS stimulation is provided and any change in parameters such as respiratory changes are used to indicate that an adequate level of VNS stimulation is achieved. The respiratory changes are induced by VNS and are not symptoms of the disease/disorder attempted to be treated.

In view of the above, it is apparent that KING does not use VNS in the manner recited. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 6 was rejected under 35 USC 103(a) as being unpatentable over ZABARA et al or KING et al. That rejection is respectfully traversed.

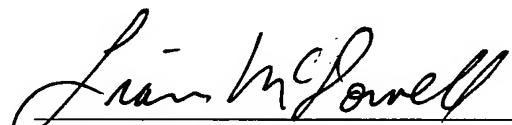
Claim 6 depends from claim 1 and is believed patentable over ZABARA and KING at least for depending from an allowable independent claim.

In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Liam McDowell, Reg. No. 44,231
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

LM/snt